

### REMARKS/ARGUMENTS

This Response is responsive to the non-final Office action dated May 23, 2007, setting forth a shortened three month statutory period for reply with a one month extension of time expiring on September 23, 2007.

Prior to entry of this Response, claims 1-34 and 62 are pending in this application, with claim 1 being an independent claim. There are no amendments made to the claims in this response and therefore the pending claims remain the same.

#### I. Claim Rejections under 35 U.S.C. § 102

Claims 1-4, 9, 13-16, 18-34, and 62 are rejected under 35 U.S.C. § 102(b) as anticipated by U.S. patent No. 5,930,775 issued to McClauey et al. (hereinafter "McClauey et al."). For at least the following reasons, the Assignee respectfully disagrees with these rejections. Claim 1 is an independent claim, from which the other rejected claims depend directly or indirectly. An anticipation rejection requires that each limitation of a rejected claim be disclosed by a single prior art reference. At least two limitations of independent claim 1 are not taught by McClauey.

a. *McClauey does not disclose obtaining an estimated liquidation time between a last interest paid date for the loan and a receipt of the net proceeds from the sale of the property*

McClauey does not involve providing an estimate of the liquidation time between a last interest paid date for a loan and the receipt of the net proceeds from the sale of the property associated with the loan as set forth in claim 1. The Office action relies on various sections of McClauey as disclosing the recited limitation, none of which are sufficient.

First, the Office action relies on col. 2, lines 19-26, to disclose the recited limitation. This section of McCauley, however, merely discloses an option for reducing losses when a loan is underperforming. Essentially, the option is to modify the terms of the loan. There is nothing in the recited text that discloses estimating the liquidation timing as set forth in claim 1.

Second, the Office action relies on col. 3, lines 1-31 of McCauley to disclose the recited limitation. This section merely discloses a portion of a method for selecting a business plan for non performing loans that involves generating a repayment plan for a borrower taking into account the ability to pay and the interest rate. The section also discloses an alternative to the repayment plan to use when the borrower cannot repay the unpaid loan amount. The alternative involves various steps, none of which include "obtaining an estimated liquidation time

between a last interest paid date for the loan and a receipt of the net proceeds from the sale of the property” as required by claim 1.

Third, the Office action relies on col. 5, lines 1-33 of McCauley to disclose the recited limitation. This section of McCauley involves factors for assessing the “Default Rate” as well as comparisons between the Default Rate, a Minimum rate, and a short payoff situation. This section of McCauley does not discuss estimating the liquidation timing as set forth in claim 1.

Finally, the Office action relies on col. 7, lines 1-8, Fig. 6 (generally) and the Abstract as disclosing the recited limitation. The information at the recited section of col. 7 merely discloses various parameters of loan and borrower financial information, it provides no discussion of estimating the liquidation timing as set forth in claim 1. The Abstract discloses various facets of the invention, none of which include estimating the liquidation timing as set forth in claim 1. Finally, Fig. 6 is an analysis sheet generated by the investment planning system described in the McCauley patent. It includes numerous data fields and calculated values, none of which appear to include the operation of “obtaining an estimated liquidation time between a last interest paid date for the loan and a receipt of the net proceeds from the sale of the property” as required by claim 1.

Accordingly, for at the least the reasons recited above, McCauley does not disclose each and every limitation of claim 1 and cannot therefore anticipate claim 1 under 35 U.S.C. § 102.

*b. McCauley does not yield the estimated financial outcome for a pool of loans.*

McCauley provides no assessment of a pool of loans. McCauley is only concerned with an individual loan. Accordingly, McCauley does not “yield the estimated financial outcome for the pool [of loans]” as required by claim 1. The Office action relies on Fig. 6 and the Abstract to disclose this limitation. Fig. 6, however, is an analysis sheet for a single loan associated with loan number 789789769 (see upper left hand corner). Figure 6 provides no discussion of providing an estimated financial outcome for a pool of loans. Similarly, the Abstract provides no such discussion. Accordingly, for this additional reason, McCauley does not disclose each and every limitation of claim 1 and cannot therefore anticipate claim 1 under 35 U.S.C. § 102.

All of the other claims rejected under 35 U.S.C. § 102 depend from and include all of the same limitations as independent claim 1, and are rejected under McCauley. Accordingly, for at

least the same reasons as independent claim 1, McClauey does not anticipate claims 2-4, 9, 13-16, 18-34, and 62.

For the reasons set forth above, it is respectfully submitted that claims 1-4, 9, 13-16, 18-34, and 62 are patentable under 35 U.S.C. § 102 over McClauey, in form for allowance, and such indication is respectfully suggested.

## **II. Claim Rejections under 35 U.S.C. § 103**

Claims 5-8 and 10-12 are rejected under 35 U.S.C. § 103(a) as unpatentable over McClauey et al. in view of U.S. patent publication No. 2002/0059136 A1 to May (hereinafter "May"). For at least the following reasons, Assignee respectfully disagrees with these rejections. The rejection of these claims relies on basis of rejecting claim 1 under McClauey. Each of these claims depend from and include the limitations of independent claim 1. Accordingly, it is respectfully submitted that these claims are not rendered obvious by the combination of McClauey and May as the combination does not disclose or suggest all of the limitations of the claims.

For the reasons set forth above, it is respectfully submitted that claims 5-8 and 10-12 are patentable under 35 U.S.C. § 103 over the combination of McClauey and May, in form for allowance, and such indication is respectfully suggested.

## **III. Conclusion**

After review and consideration of the above arguments, claims 1-34 and 62 remain in the application. In accordance with the arguments set forth herein, the Assignee respectfully submits the application and all pending claims are in condition for allowance and requests such prompt allowance.

The Applicant believes no fees or petitions, other than the \$120 fee for a one month extension of time, are due with this filing. However, should any such fees or petitions be required, please consider this a request therefor and authorization to charge Deposit Account No. 04-1415 as necessary.

Appl. No. 09/992,348  
Reply to Office Action of May 23, 2007

If the Examiner should require any additional information or amendment, please contact the undersigned attorney.

Respectfully submitted,

Date: September 5, 2007

By

A handwritten signature in black ink, appearing to read "Gregory P. Durbin", written over a horizontal line.

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